

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE
COMMITTEE ON AGRICULTURE & FOOD SYSTEMS
AND
COMMITTEE ON HEALTH & HOMELESSNESS

WEDNESDAY, FEBRUARY 8, 2023
9:00 AM
CONFERENCE ROOM 325 AND VIDEOCONFERENCE

HOUSE BILL NO. 1359
RELATING TO HEMP

Chairpersons Gates and Bellati and Members of the Committees:

Thank you for the opportunity to testify on House Bill 1359. This measure repeals redundant regulations on hemp production, which will reduce costs for the State and Hawaii farmers. Amends hemp law in a manner that recognizes the unique constraints of Hawaii farmers, while protecting human health. Allows licensed hemp producers to sell hemp biomass. Requires transparency in labeling of hemp products to identify the percentage of Hawaii-grown hemp or hemp product in all hemp products. Requires and appropriates moneys for the Department of Health to hire or consult a toxicologist or consultant familiar with hemp industry standards for the purpose of setting defined action limits or exposure levels for different types of hemp products. Extends the State's hemp processor law through 7/1/2027. Repeals on 7/1/2027. The Department of Agriculture offers the following comments.

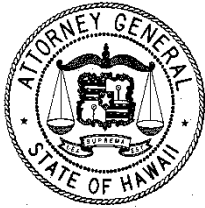
Reducing the growing buffer zone from 500 feet to 100 feet near residential dwellings may increase land use conflicts and complaints between licensed hemp



growers and established neighbors over noise from fans, light pollution from grow lights, and smells associated with hemp cultivation. These conditions are typically associated with indoor hemp cultivation operations and may be mitigated through engineering solutions or design. While reduced buffer zones may impact those issues between agricultural activity and abutting residential districts, the proposed 100 foot buffer zones for hemp operations appear to conform with such buffers for other nuisance or hazardous activities such as pesticide application.

Hemp geographic origin labeling provides transparency and encourages fair advertising practices for hemp products that are being promoted for sale. The Department supports the labeling requirement to ensure that hemp produced in the State is labeled as Hawaii produced and that hemp produced outside the State is labeled with the appropriate origin. The Department notes, however that enforcement of the requirement may be challenging because it is difficult to determine the authenticity of the origin of the product.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:
H.B. NO. 1359, RELATING TO HEMP.

BEFORE THE:
HOUSE COMMITTEES ON AGRICULTURE AND FOOD SYSTEMS AND ON
HEALTH AND HOMELESSNESS

DATE: Wednesday, February 8, 2023 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Jodi K. Yi or Bryan C. Yee, Deputy Attorneys General

Chairs Gates and Belatti and Members of the Committees:

The Department of the Attorney General (Department) offers the following comments on this bill.

The purposes of this bill are to reform state laws regarding hemp in light of federal initiatives by repealing redundant regulations, amending hemp laws, allowing hemp producers to sell hemp biomass, requiring transparency in labeling, appropriating moneys for the Department of Health, and extending the hemp processor law through July 1, 2027, as stated in section 1 on page 2, line 20, to page 3, line 16, of the bill.

Among other things, this bill proposes to allow the sale of hemp biomass to consumers. It defines "hemp biomass" in subsection 141-42(h), Hawaii Revised Statutes (HRS), as "the flowers, leaves, and stalks of hemp plants, and other hemp plant material" (page 8, lines 9-11).

By including flowers and leaves, this definition is inconsistent with chapters 329 and 712, HRS. Currently, sections 329-1 and 712-1240, HRS, exempt the following from the definition of "marijuana": (1) "mature stalks of the plant (genus) Cannabis, fiber produced from the stalks, oil, or cake made from the seeds of the plant," and other derivatives; (2) hemp that is in the possession, custody, or control of hemp producers or hemp processors; and (3) products containing or derived from hemp that do not include certain living parts of the plant and have a delta-9-tetrahydrocannabinol concentration

(THC) of not more than 0.3 percent on a dry weight basis as measured post-decarboxylation or other similarly reliable methods. Consequently, the sale of hemp flower and leaves to consumers is considered the sale of marijuana under these statutory provisions, the possession of which is prohibited unless they are in the possession of licensed hemp producers or processors. We recommend that the definition of "hemp biomass" in the new section 142-42(h) on page 8, lines 9-11, be revised to delete flowers and leaves.

In addition, in section 142-42(g) on page 8, lines 5-8, this bill prohibits all penalties for the production of hemp, except for the growing of hemp without a USDA license. That prohibition appears to be overbroad because it will also prohibit penalties against hemp growers for the illegal use of pesticides or the production of hemp within the buffer established by section 141-42, HRS. We recommend that the wording prohibiting all penalties on page 8, lines 5-8, be deleted.

Thank you for the opportunity to present this testimony.

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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In reply, please refer to:
File:

**Testimony COMMENTING on HB1359
RELATING TO HEMP**

REPRESENTATIVE CEDRIC ASUEGA GATES, CHAIR
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Hearing Date: 2/8/2023

Room Number: CR 325

- 1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's
- 2 Executive Budget Request for the Department of Health's (Department) appropriations and
- 3 personnel priorities.
- 4 **Department Testimony:** The Department respectfully offers comments on this bill and
- 5 supports section 9 extending the sunset date for Chapter 328G, Hawaii Revised Statutes (HRS).
- 6 The new definition of "finished hemp product" may allow the sale of amounts of delta-9
- 7 tetrahydrocannabinol (THC) in food products that meet the legal definition of hemp but also
- 8 exceed the current amounts of legal THC found in edible cannabis products purchased from a
- 9 dispensary. The 0.3% THC threshold is commonly misunderstood as a non-intoxicating
- 10 limitation however, finished hemp products containing 0.3% or less THC by weight can be very
- 11 intoxicating if consumed in a large enough quantity. The total amount of 0.3% THC by weight
- 12 of food consumed may contain enough THC to generate a psychotropic effect that can be greater
- 13 than that available to purchasers of edible cannabis products sold in a dispensary. Congress
- 14 established the delta-9 THC limit in the definition of hemp to allow for the production of hemp
- 15 fiber and grain. To prevent intoxication, it is necessary to limit the total amount consumed at
- 16 any one time (i.e., appropriate portions or "doses" are necessary to prevent intoxication). At the
- 17 time the legislation was enacted, delta-9 THC was the primary cannabinoid known to have an

1 intoxicating effect and we now know there are other cannabinoids, including synthetic variations,
2 which can generate a similar response in the human body.

3 The Department is unclear about what a “herb product” (page 9 line 7) means as part of
4 the “finished hemp product” definition. The Department opposes the sale of any hemp leaf,
5 hemp floral material, and cannabinoid product used to aerosolize for respiratory routes of
6 delivery that is intended to be smoked or inhaled. Hemp leaf and hemp floral material could be
7 spiked with synthetic cannabinoids and the effects are often unpredictable, and, in some cases,
8 more dangerous or even life-threatening. Although hemp does not contain an intoxicating level
9 of THC, smoked leaf and floral material contains many of the same toxins and carcinogens found
10 in tobacco smoke.¹ This is especially concerning because there is no established minimum
11 purchasing age for hemp products. Also, hemp flower is visually indistinguishable from the
12 cannabis flower, and allowing the sale of hemp flower will make it virtually impossible to
13 prevent illicit cannabis sales.

14 The U.S. Food and Drug Administration (FDA) has not approved hemp derivatives,
15 hemp extracts, or cannabinoids, for safe use in the food supply. The sale of hemp products in the
16 form of food, via interstate commerce, may be subject to seizure by federal authorities making
17 the economic viability of this kind of hemp product subject to considerable uncertainty. On
18 January 26, 2023, FDA announced an intention to collaborate with Congress to create a new
19 regulatory pathway for cannabidiol (CBD) products since these products cannot be
20 considered dietary supplements or food additives. FDA highlights potential risks and
21 safety concerns around harm to the liver, interactions with certain medications, effects on
22 the male reproductive system, exposure among children and pregnant people, and oversight
23 around CBD products for animals, as consumers could be exposed to CBD through animal
24 products such as meat, milk, and eggs.

25 Since there is no established minimum purchasing age for hemp products, the
26 Department is concerned about “finished hemp products” sold like candy and food products,
27 which may lead to accidental exposure to children, adults, and pets. FDA and the nation’s

¹ Moir D, Rickert WS, Levasseur G, et al. A comparison of mainstream and sidestream marijuana and tobacco cigarette smoke produced under two machine smoking conditions. *Chemical Research in Toxicology*. 2008;21(2):494-502.

1 poison control centers reported an uptick in adverse event reports, marketing of products that
2 appeal to children, and concerns regarding contamination during manufacturing. Retailers (vape
3 and smoke shops, gas stations, and convenience stores) may also sell alcohol and tobacco
4 products like e-cigarettes and cigarettes, which can lead to a greater risk of drug dependence.

5 The Department does not support local hemp products declaring the percentage of Hawaii
6 grown hemp since we cannot determine the origin or percentage of Hawaii grown hemp. There
7 is no industry standard to determine the actual percentage or origin of hemp for effective
8 enforcement and the Department lacks the resources to effectively determine the truthfulness of
9 any claims made about product origin. The regulatory burden this section places on the
10 Department is outside the scope of the Department's mission to protect public health and is
11 likely more effectively achieved by other means.

12

13

14 **Offered Amendments:** None

15

16 Thank you for the opportunity to testify on this measure.

17

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Officers

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State President

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Vice-President

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Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Ray Maki
Kauai

Aloha Chairs Gates & Belatti, Vice Chairs Kahaloa & Takenouchi, and Members of the House Agriculture & Food Systems, Health & Homelessness Committees,

The Hawaii Farmers Union United (HFUU) is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports HB1359.**

This bill will allow hemp producers to streamline their production process, reduce costs, and adhere to industry-specific constraints that are pertinent to Hawaii's unique agricultural environment. Furthermore, it will ensure the availability of transparency in labeling, clarifying the percentage of hemp grown in Hawaii. In addition, appropriating money for the Department of Health to hire or consult with a toxicologist or consultant is a great step forward and will allow farmers to confidently participate in hemp growth. We urge you to vote in favor of this bill, as it will help Hawaii farmers remain sustainable and thrive in both the hemp and agricultural markets.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

HB-1359

Submitted on: 2/7/2023 7:37:54 AM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Judiah McRoberts	Kauai Hemp Company	Support	In Person

Comments:

Aloha Committee members,

I strongly support this bill. As an individual who has worked in the hemp industry over the past three years, I have laid witness to the industry erode due to over regulation and out of state competition. The Hawaii hemp pilot program had over 50 licenses. Currently there are only a handful of active hemp farmers and even fewer CBD manufacturers in the state. The provisions in this bill will help support, protect and bolster the hemp industry in Hawaii providing sustainable agriculture jobs. It will also expand and regulate the product offerings that many stores in the state already carry.

Thank you,

Judah McRoberts

HB-1359

Submitted on: 2/6/2023 12:08:23 PM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maile Walters	Kauai Hemp Co.	Support	Written Testimony Only

Comments:

Bill #HB 1359 Relating to Hemp

Testimony from Maile Walters

Dear Committee chairs and members,

Thank you so much for allowing me to testify in support of this bill.

My name is Maile Walters and I am the Director of Compliance at Kauai Hemp Co. I've been in this position for almost two years and have worked diligently to support our company in complying with all state and federal rules and regulations pertaining to hemp.

I support this bill for many reasons, including the following:

- 1. It will allow Hawaii to grow our hemp industry by removing the requirement of needing a growing license in order to manufacture hemp products. At this point, it's almost impossible to be in compliance unless you are a farmer AND a manufacturer.**
- 2. Increasing the allowed products will bolster the market and give consumers what they want.**
- 3. Defining and protecting Hawaii CBD products allows consumers to "buy local" and supports our growing industry.**

Working in compliance in the hemp industry for two years has increased my passion for farming industries in Hawaii. Our company is very committed to compliance and I work diligently to make sure we are doing everything in our power to be compliant. This bill will clarify and strengthen our ability to be compliant while growing our industry and bolstering farming in Hawaii.

Please support HB1359!

Thank you so much for the opportunity to testify.

HB-1359

Submitted on: 2/7/2023 1:01:34 PM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Cook	Kauai hemp co	Support	Written Testimony Only

Comments:

Aloha all,

Thank you for taking the time to review the HB1359. I have been a Hemp farmer since 2019 starting with the HDOA pilot program. We have been busy, and made something incredible over here in Kauai. Please consider HB1359 to help us increase areas for revenue. Mahalo for your time.

Jacob Cook

HB-1359

Submitted on: 2/7/2023 2:06:26 PM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marie Jobes	Island Hemp Collective	Support	Written Testimony Only

Comments:

Aloha,

I am the owner of Island Hemp Collective, a CBD retail shop based out of Oahu that explicitly sells locally grown and manufactured CBD products. I work with local hemp farmers who share the vision of providing our community and visitors access to quality, lab-tested, effective CBD products made on our islands. Over the years, my business and the business of the farmers I partner with have suffered due to the Hawaii state regulations around Hemp/CBD. Being barred from selling and producing CBD beverages, edibles, and smokables with Hawaii Hemp makes us lose business to the large mainland CBD corps. Customers want to be able to consume their natural remedies in various ways other than a tincture and topical application. CBD is a healthier and, in many cases, safer option than most over-the-counter drugs. In Hawaii, we are fortunate to have the climate and resources to grow hemp outdoors year-round and craft excellent, organic CBD products. I speak for myself, my business, the other local CBD shops, and hemp farmers across the islands when I ask you to change the regulations to allow CBD beverages, edibles, and smokables to be sold to save local hemp businesses. This is our opportunity to join the progression in our country of using natural remedies and encouraging healthier, cleaner lifestyle choices. Plant medicine in all forms shouldmbe a choice for all consumers.

Mahalo for your time.

Marie Jobes

Owner, Island Hemp Co.

8089378227

HB-1359

Submitted on: 2/6/2023 5:38:56 PM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Isabella Sherman	Omao Labs LLC dba Kauai Hemp Company	Support	Written Testimony Only

Comments:

Bill #HB 1359 Relating to Hemp

Testimony from Isabella Sherman

Dear Committee chairs and members,

Thank you so much for allowing me to testify in support of this bill.

My name is Isabella Sherman and I am the Vice President at Kauai Hemp Co. I've been in this position for about two years and together, with the rest of our team, have worked very hard to support our company in complying with all state and federal rules and regulations pertaining to hemp.

I support this bill for many reasons, including the following:

- 1. It will allow Hawaii to grow our hemp industry by removing the requirement of needing a growing license in order to manufacture hemp products. At this point, it's almost impossible to be in compliance unless you are a farmer AND a manufacturer.**
- 2. Increasing the allowed products will bolster the market and give consumers what they want.**
- 3. Defining and protecting Hawaii CBD products allows consumers to "buy local" and supports our growing industry.**

Working in the hemp industry for the past two years has increased my passion for the diversification and support of local the farming industries in Hawaii. Our company is very committed to compliance and our team works diligently to make sure we are doing

everything in our power to be compliant. This bill will clarify and strengthen our ability to be compliant while growing our industry and bolstering farming in Hawaii.

Please support HB1359!

Thank you so much for the opportunity to testify.

HB-1359

Submitted on: 2/6/2023 8:39:02 AM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephanie Austin	Individual	Support	Written Testimony Only

Comments:

Hemp can be an important crop for Hawaii -

KURT R. BOSSHARD

ATTORNEY AT LAW
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EMAIL: kboss@aloha.net

February 6, 2023

Re: HB 1359 Relating to Hemp
Testimony from Kurt Bosshard

Committee Chairs and Members:

I strongly support the testimony of Ms. Walters and others who have supported this Bill. Passage of HB 1359 is critical to the survival of the Hemp industry. Several years ago the Administration and the Legislature stated that a healthy hemp industry could provide a significant number of jobs and revenue to the State. For whatever reason action on this matter has been delayed such that the industry cannot survive without your immediate support of this Bill. Failure to pass a "clean" Bill such as that presented in HB 1359 would be a repeated vote for the Mainland Hemp Industry which now controls the processing and distribution of Hemp related products which are already widely available in our State without regulation. We thank those who have taken the time to understand the needs of the industry and incorporated those needs into this Bill.

Thank you for your consideration of the foregoing.

Sincerely,



KURT BOSSHARD

KB:tes

HB-1359

Submitted on: 2/6/2023 11:06:28 PM

Testimony for AGR on 2/8/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Me	Individual	Support	In Person

Comments:

Strong support